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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/975,873	10/12/2001	Jon Buzzard	CRD0959	9691
27777	7590	10/04/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			NGUYEN, VI X	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/975,873	Applicant(s) BUZZARD ET AL.	
	Examiner Victor X Nguyen	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. In response to applicant's amendment of 06/14/2004, the examiner has removed all prior 35 USC § 112 rejections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102 (b) as being anticipated by Gunderson (U.S.5,776,142).

Figure 1, Abstract and col. 2, lines 23-37 of Gunderson shows a medical device delivery system having all the limitation as recited in the above listed claims 1 and 8, including: an inner shaft (40); an outer sheath (50); a medical device (labeled in col. 4, lines 29-35) is within the outer sheath (50); item 24 (figs. 1 and 2) is considered a handle, i.e., a handle is defined as a part that is designed to be held or operated with the hand that is affixed to the inner shaft (40) and if one considers in fig. 1, item 24 is a handle, then the bottom part of element 24 (distal of element 24) is affixed or attached to the inner shaft (40) and coupled with the outer sheath (50); and wherein a first (20) and second (30) independently moveable actuators (col. 4, lines 52-67 and col. 5, lines 1-16) adjust the longitudinal positions of the inner shaft and the outer sheath. Furthermore, the first and the second actuators provide a different amount of mechanical advantage (col. 8, lines 36-60).

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Regarding claims 2 and 3, where one of the actuator provides a mechanical advantage of 1:1 (labeled as the pitch of the threads 28 may match the pitch of the coils in the stent, in col. 8, lines 37-44); and where the first actuator (20, see col. 4, lines 57-61) is rotated around a threaded base (32).

Regarding claims 4 and 5, where the second actuator (30) is defined by the handle (fig.1); and where the first and second actuators are formed as a lever.

Regarding claims 6 and 7, where the first actuator provides a mechanical advantage greater than 1:1 (col. 8, lines 45-60); and where the handle and the first and the second actuators can operate by hand.

Regarding claims 9-10, fig. 2, item 25 is considered as a limit element. The limit element resists rotation between the inner shaft member and the tubular outer sheath.

Regarding claim 11, Figure 1, Abstract and col. 2, lines 23-37 of Gunderson shows a medical device delivery system having all the limitation as recited in the above listed claim, including: an inner shaft (40); an outer sheath (50); a medical device (labeled in col. 4, lines 29-35) is within the outer sheath (50); item 24 (figs. 1 and 2) is considered a handle, i.e., a handle is defined as a part that is designed to be held or operated with the hand that is affixed to the inner shaft (40) and coupled with the outer sheath (50); and where a first and second independently moveable actuator (20,30, col. 4, lines 52-67 and col. 5, lines 1-16) for adjusting the longitudinal positions of the inner shaft and the outer sheath; and wherein a limit element (25) limits the extent of travel for the second actuator. The limit element resists rotation between the inner shaft member (40) and the tubular outer sheath (50).

Response to Amendment

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3. Applicant's arguments with respect to claim 1 have been considered but they are not persuasive. With respect to claim 1, the examiner disagrees with applicant's remarks that the Gunderson reference fails to disclose that a handle is not affixed to the inner shaft. As the examiner has pointed out above, item 24 (figs. 1 and 2) is considered a handle, i.e., a handle is defined as a part that is designed to be held or operated with the hand that is affixed to the inner shaft (40) and if one considers in fig. 1, item 24 is a handle, then the bottom part of element 24 (distal of element 24) is affixed or attached to the inner shaft (40). Therefore, claim 1 of the invention is not defined over the Gunderson reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen
Examiner
Art Unit 3731

Vn *VP*
9/29/2004

Julian W. Woo
JULIAN W. WOO
PRIMARY EXAMINER